

SUBCHAPTER F—FEDERAL AID TO STATES IN FISH AND WILDLIFE RESTORATION

PART 80—ADMINISTRATIVE REQUIREMENTS, FEDERAL AID IN FISH AND FEDERAL AID IN WILDLIFE RESTORATION ACTS

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AUTHORITY: 16 U.S.C. 777i; 16 U.S.C. 669i; 18 U.S.C. 701.

SOURCE: 47 FR 22539, May 25, 1982, unless otherwise noted.

NOTE: The information collection requirements in this part have been approved by the Office of Management and Budget under control number 1018-0048.

§ 80.1 Definitions.

As used in this part, terms shall have the following meanings:

(a) *The Federal Aid Acts or the Acts.* The Federal Aid in Wildlife Restoration Act of September 2, 1937, as amended (50 Stat. 917; 16 U.S.C. 669-669i), and the Federal Aid in Sport Fish Restoration Act of August 9, 1950, as amended (64 Stat. 430; 16 U.S.C. 777-777k).

(b) *State.* Any State of the United States; the territorial areas of Guam, the Virgin Islands, and American Samoa; the Commonwealth of Puerto Rico, the District of Columbia, and the Commonwealth of the Northern Mariana Islands.

(c) *State fish and wildlife agency.* The agency or official of a State designated under State law or regulation to carry out the laws of the State in relation to the management of fish and wildlife resources of the State. Such an agency or official which is also designated to exercise collateral responsibilities, e.g., State Department of Natural Resources, shall be considered the State fish and wildlife agency only when exercising the responsibilities specific to the management of the fish and wildlife resources of the State.

(d) *Secretary.* The Secretary of the Interior or his designated representative.

(e) *Director.* The Director of the U.S. Fish and Wildlife Service, or his designated representative. The Director serves as the Secretary's representative in matters relating to the administration and execution of the Federal Aid Acts.

(f) *Regional Director.* The Regional director of the U.S. Fish and Wildlife Service, or his designated representative.

(g) *Federal Aid Manual.* The publication of the U.S. Fish and Wildlife Service which contains policies, standards and procedures required for participation in the benefits of the Acts.

(h) *Project.* A program of related undertakings necessary to fulfill a defined need which is consistent with the purposes of the Act.

(i) *Comprehensive fish and wildlife management plan.* A document describing the State's plan for meeting the long-range needs of the public for fish and wildlife resources, and the system for managing the plan.

(j) *Federal Aid Funds.* Funds provided under Federal Aid Acts.

(k) *Resident angler.* A resident angler is one who fishes within the same State where legal residence is maintained.

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(1) *Common horsepower.* Common horsepower is defined as any size motor that can be reasonably accommodated on the body of water slated for development.

[47 FR 22539, May 25, 1982, as amended at 50 FR 21448, May 24, 1985]

§ 80.2 Eligibility.

Participation in the benefits of the Acts is limited to State fish and wildlife agencies as specified below:

(a) Federal Aid in Sport Fish Restoration—Each of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa.

(b) Federal Aid in Wildlife Restoration—Each of the 50 States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands; except that the benefits afforded by section 4(b) of the Act relating to hunter education projects are limited to the 50 States.

[47 FR 22539, May 25, 1982, as amended at 50 FR 21448, May 24, 1985]

§ 80.3 Assent legislation.

A State may participate in the benefits of the Act(s) only after it has passed legislation which assents to the provisions of the Acts and has passed laws for the conservation of fish and wildlife including a prohibition against the diversion of license fees paid by hunters and sport fishermen to purposes other than administration of the fish and wildlife agency. Subsequent legislation which amends these state laws shall be subject to review by the Secretary. If the legislation is found contrary to the assent provisions, the State shall become ineligible.

§ 80.4 Diversion of license fees.

Revenues from license fees paid by hunters and fishermen shall not be diverted to purposes other than administration of the State fish and wildlife agency.

(a) Revenues from license fees paid by hunters and fishermen are any revenues the State receives from the sale of licenses issued by the State conveying

to a person the privilege to pursue or take wildlife or fish. For the purpose of this rule, revenue with respect to license sales by vendors, is considered to be the net income to the State after deducting reasonable vendor fees or similar amounts retained by sales agents. License revenues include income from:

(1) General or special licenses, permits, stamps, tags, access and recreation fees or other charges imposed by the State to hunt or fish for sport or recreation.

(2) Sale, lease, rental, or other granting of rights of real or personal property acquired or produced with license revenues. Real property includes, but is not limited to, lands, building, minerals, energy resources, timber, grazing, and animal products. Personal property includes, but is not limited to, equipment, vehicles, machine, tools, and annual crops.

(3) Interest, dividends, or other income earned on license revenues.

(4) Federal Aid project reimbursements to the States to the extent that license revenues originally funded the project for which the reimbursement is being made.

(b) For purposes of this rule, administration of the State fish and wildlife agency include only those functions required to manage the fish and wildlife-oriented resources of the State for which the agency has authority under State law.

(c) A diversion of license fee revenues occurs when any portion of license revenues is used for any purpose other than the administration of the State fish and wildlife agency.

(d) If a diversion of license revenues occurs, the State becomes ineligible to participate under the pertinent Act from the date the diversion is declared by the Director until:

(1) Adequate legislative prohibitions are in place to prevent diversion of license revenue, and

(2) All license revenues or assets acquired with license revenues are restored, or an amount equal to license revenue diverted or current market value of assets diverted (whichever is greater) is returned and properly available for use for the administration of the State fish and wildlife agency.